THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22016 of 2006

Dated: 14-12-2006

Between:

Jerripothula Dharma Rao and others.

..... PETITIONERS

AND

The Assistant Director of Mines & Geology, Anakapalle, Visakhapatnam and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.22016 of 2006

ORDER:

Six villagers of Maredupudi of Anakapalle Mandal in Visakhapatnam District filed this writ petition assailing the proceedings of respondent No.1 dated 16.09.2006 whereunder a mining lease was granted to respondent No.3 over land to an extent of four hectares for quarry lease for rough stone and gravel in survey No.357 of said Village.

Petitioners 2 to 6 are ward members of Maredupudi Gram Panchayat and petitioner No.1 is statedly member of Mandal Parishad Territorial Constituency of Maredupudi Village. The grant of quarry lease in favour of respondent No.3 is assailed mainly on two grounds - that the same is in violation of Rule 9 (ii) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (the Rules, for short) and that the quarry is situated within the distance of 500 meters from Maredupudi Village limits with residential houses.

This Court while, admitting the writ petition, suspended the impugned order. Respondents 1 and 2 and respondent No.3 have separately filed applications for vacating the order of interim suspension. In the counter-affidavit filed by respondent No.1, the impugned order is sustained mainly relying on 'No Objection Certificate' given by the Mandal Revenue Officer, Anakapalle. The allegation that the quarry is situated at a distance of 0.5 kilometers is not denied. However, it is stated that while granting lease, the grantee was asked to give undertaking that blasting activity would not be undertaken. In the counter-affidavit filed by respondent No.3, apart from raising the question of *locus standi* of the petitioners it is also alleged that the writ petition is not *bona fide*.

The question whether a mining lease can be granted within the vicinity of residential area has been the subject matter of number of decisions of this Court as well as the Supreme Court in **Mohd. Haroon Ansari v. District Collector, Rangareddy District, A.P.**[1]. While dealing with a case of illegal blasting and crushing of granite within the vicinity of residential Villages, when the matter was filed invoking PIL jurisdiction of this Court, this High Court appointed an expert committee. The expert committee opined that a distance of one kilometer from stone quarry would be safe distance. Relying on the same, this Court set aside the leases granted in favour of seventeen persons. This Court's order was subject matter of challenge before the Supreme Court in **Mohd. Haroon Ansari** (supra 1). While disposing of the appeal, by

special leave, the Supreme Court allowed all the mining leases granted prior to 17-12-1996, provided they are within a distance of one kilometer from the lake or reservoir or 500 meters from human habitation. It only means that insofar those mining leases granted after December, 1996, all safeguards have to be considered by the appropriate sanctioning authority. The following the Supreme Court's observations are apt.

> That is why this Court granted an interim order earlier and directed that no mining and stone-crushing operations shall be carried on within a distance of 1 km from the lake or reservoir and 500 metres from human habitations. This order will hold good in respect of all such mining leases which have been granted prior to 17.12.1996. It is not necessary to advert to any other details or arguments raised in the petitions filed before the High Court or in appeals before this Court. Suffice it to observe that the impugned order of the High Court shall stand modified only to the extent indicated by us and all other terms set out by the High Court in regard to the safeguards to be adopted in maintenance of the environment shall remain intact. Further, it is certainly necessary that the appellants before carrying on any of the mining and stone-crushing activities obtain necessary clearance from the Pollution Control Board and must comply with such conditions as may be imposed by the Pollution Control Board. It is open to the Pollution Control Board to take such action as may be necessary to enforce the conditions imposed by them under the relevant statutes.

Reference was also made to the judgment of a Division Bench of this Court in **A. Citizen v. District Collector, R.R. Dist**[2], which was subject matter of the decision of the Supreme Court in **Mohd. Haroon Ansari** (supra 1). The Division Bench of this Court at paras 25 and 26 observed as under.

> The distance of 1 Kilometre, according to expert committee is a safe distance between the site under quarry lease and the residential locality or GLSR. In fact the distance between them is not only be safe, but it should be safer. As the residents of the village situated nearby are experiencing tremors as well as dust pollution, it is always better that no quarry lease should be granted within a distance of 2 Kilometres in future. Therefore, the respondents 7 to 23 cannot operate quarry leases and stone crushers. It is, however, open to them to apply for areas for quarry lease beyond 2 Kilometres from residential areas and GLSR.
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> Accordingly, respondents 2 and 4, who are Secretary Mines and Geology, Government of A.P. as well as Chairman, A.P. Pollution Control Board, Hyderabad respectively would examine the leases of respondents afresh before they are renewed, or continued and ensure that no damage to habitation

> of human life, animals and plant life. Illegal quarrying by Vaddera community which is within 1 Kilometre from the above areas should be stopped forth with. The respondents while applying for fresh areas ensure and adopt dust suppression methods to control dust emission as recommended by MOEF/APPCB by following the guidelines as notified. The Gram Panchayat members will bring to the notice of the High Court whenever there is infraction of these guidelines.

As rightly pointed out by the learned counsel for the petitioners, respondent No.1 did not keep the binding judgment of this Court and Supreme Court while granting lease to respondent No.3. This defect, however, can always be considered by the appellate authority under Rule 35 of the Rules. Therefore, liberty is given to the petitioners to prefer an appeal before respondent No.2 within a period of ten days from the date of receipt of a copy of this order. As and when such appeal is preferred, respondent No.2 shall consider the same, issue notice to the petitioners and respondent No.3 and decide the matter in accordance with law and also keeping in view the decisions of this Court and the Supreme Court. To enable the petitioners to obtain appropriate orders against operation of the quarry by respondent No.3, there shall be *status quo* as on today for a period of two weeks. Thereafter, the petitioners are given liberty to obtain appropriate orders from respondent No.2.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

(**V.V.S.RAO, J**)

14th December, 2006
Note: Issue CC by 18-12-2006
B/o
ghn

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[1] (2004) 1 SUPREME COURT CASES 491

[2] 1998(1) An.W.R. 478 (D.B.)